

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012070348

v.

LAKE TAHOE UNIFIED SCHOOL
DISTRICT, ALPINE COUNTY UNIFIED
SCHOOL DISTRICT, COUNTY
DEPARTMENT OF BEHAVIORAL HEALTH
AND TAHOE/ALPINE SELPA

ALPINE COUNTY UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2012080276

v.

PARENT ON BEHALF OF STUDENT.¹

ORDER DENYING REQUEST TO
REOPEN CASE

On July 11, 2012, Parent on behalf of Student (Student) through her Advocate, filed a Request for Due Process Hearing (complaint) naming Lake Tahoe Unified School District (Tahoe) and Alpine Unified School District (Alpine) as respondents (OAH Case No. 2012070348). On August 13, 2012, Alpine filed a Request for Due Process Hearing (Alpine complaint)(OAH Case No. 2012080276), along with a Request to Consolidate its complaint with Student's complaint. There is no record of the Request to Consolidate having been granted by OAH. **On August 20, 2012, Student, through her Advocate, filed a Notice of Withdrawal of Student's Complaint.** On August 24, 2012, Alpine filed a Request to Amend its Complaint which was granted on August 30, 2012 (Alpine amended complaint). On September 9, 2012, Parent sent OAH a letter indicating she had not consented to the withdrawal of OAH Case No. 2012070348, by her Advocate, and that she had dismissed her Advocate from further service. This letter, however, was not served upon any of the

¹ Although OAH has record of Alpine USD filing a Request for Consolidation of OAH Case No. 2012070348 and OAH Case No. 2012080276, there is no record of the Request for Consolidation having been granted. Oppositions to Student's Request to Reinstate were filed in both cases, and therefore this consolidated order shall be issued jointly and in separately in each case.

respondents until September 18, 2012.² On September 19, 2012, Alpine filed an Opposition to Student's Request to Reinstate. **On September 19, 2012, Presiding ALJ Judith A. Kopec, dismissed Student's complaint.** On September 12, 2012, Tahoe filed an Opposition to Student's Request to Reinstate.

Dismissal of Student's OAH Case No. 2012070348, was not erroneous. Student's Withdrawal of the matter was filed on August 20, 2012. The nature of Parent's disagreement with her Advocate is unknown. What is known is, at that time of the Withdrawal, Student was represented by her Advocate, and the parties, including OAH, relied on the documents filed on her behalf. Further, after receiving Student's letter on September 18, 2012, and Alpine's Opposition on September 19, 2012, OAH issued a Dismissal of OAH Case No. 2012070348.

Student is not unduly prejudiced by this dismissal. Parent indicates in her letter that she is actively seeking new representation. Further, the Dismissal was issued pursuant to the Notice of Withdrawal, without prejudice to Student.³ Student may simply refile a new complaint and serve it on the respondents.

ORDER

1. The request to reopen the case is denied.
2. OAH shall serve a copy of this Order on all parties in OAH Case No. 2012070348 and OAH Case No. 2012080276.

Dated: September 28, 2012

/s/

JUDITH PASEWARK

Administrative Law Judge

Office of Administrative Hearings

² The OAH file does not reflect that Student ever served a copy of her letter requesting reinstatement on the County Department of Behavioral Health or the Tahoe/Alpine SELPA.

³ Parent has not indicated any prejudice created by dismissal of the complaint, nor does the complaint itself indicate any statute of limitations issues created by a requirement that Student refile her complaint and serve it on the relevant parties, if done in a timely fashion.